

STATUS OF CLAIMS

Claims 1-13 are pending, claims 10-13 have been withdrawn as being non-elected inventions. Claim 1 is the only independent claim.

REMARKS

Claims 1-9 are under consideration and are rejected. Applicant has amended Claims 1, 5 and 6. No new matter has been added by amending these claims. Support for such amendments can be found throughout the specification and especially on pages 8, 10.

Oath or Declaration

The Office alleged that the Declaration was defective. Applicant submits herewith a new declaration in compliance with 37 C.F.R. 1.67(a). Therefore, Applicant respectfully requests this objection be withdrawn as it is now moot.

Foreign Priority Papers

Applicant thanks the Office for its acknowledgement of receiving the foreign priority papers.

Drawings

The Office objected to the drawings as allegedly containing handwritten notation in Figures 1-3. Applicant submits herewith corrected drawings sheets in compliance with 37 C.F.R. 1.121(d). Therefore, Applicant respectfully requests this objection be withdrawn as it is now moot.

Rejection Under 35 U.S.C. 112, second paragraph

Claims 1-9 were rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant respectfully disagrees.

However, in order to further prosecution of this application Applicant has amended the claim to delete the phrase “a compound mimicking the above”.

Based upon the amendments to Claim 1, Applicant has satisfied all the requirements of 35 U.S.C. 112, second paragraph. Therefore, Applicant respectfully requests that these rejections be withdrawn as they are now moot.

Rejection under 35 U.S.C. 112, first paragraph

Claims 1-9 are rejected under 35 U.S.C. 112, first paragraph as allegedly not enabling “for microparticle with ‘a compound mimicking’ CD28-specific superagonistic monoclonal antibodies bonded to it”. Applicant respectfully disagrees.

However, in order to further prosecution of this application Applicant has amended the claim to delete the phrase “a compound mimicking the above”.

Based upon the amendments to Claim 1, Applicant has satisfied all the requirements of 35 U.S.C. 112, first paragraph. Therefore, Applicant respectfully request that these rejections be withdrawn as they are now moot.

Rejection of Claims 1-6 under 35 U.S.C. 102(b)

Claims 1-6 were rejected under 35 U.S.C. 102(b) as allegedly being anticipated by Hunig (WO 98/54225) as evidenced by Hunig (US Patent No. 6,987,171) (collectively referred to herein as “Hunig” reference). Applicant respectfully disagrees.

As noted by the Office, US Patent 6,987,171 is a continuation of international application PCT/DE98/01499, and WO 98/54225 is the publication of such international application, thus US Patent 6,987,171 contains the same disclosure of WO 98/54225.

The Office indicated that Hunig teaches superagonistic antibodies, when introduced into in vitro culture of lymphoid cells, bind to Fc receptors on non-T cells. Based upon this, the Office alleged that the cells expressing Fc receptors are “micoparticles with a support structure” to which the CD28-specific superagonistic monoclonal antibodies are bonded. Therefore, the Office concluded that the teachings in Hunig anticipate the present invention.

Hunig teaches the binding of CD28-specific superagonistic monoclonal antibodies (mAbs) to the Fc receptors found on non-T cells. The present claimed invention is directed to microparticles with a support structure and CD28-specific superagonistic mAbs bonded to the support structure wherein the support structure is formed by an *organic polymer*.

The Office further argued that Claims 5 and 6 are rejected because the exemplary language “preferably” and “for instance” does not limit the scope of the claims. Applicants respectfully disagree. However, in order to further prosecution of the application on the merits, Applicant has amended Claims 5 and 6 to delete “preferably” and “for instance”.

Therefore, based upon these amendments and the argument set forth above, Applicant has overcome this rejection and respectfully requests that this rejection be withdrawn.

Rejection of Claims 1-6 under 35 U.S.C. 103(a)

Claims 1, 5 and 7 were rejected under 35 U.S.C. 103(a) as allegedly being obvious over Hunig (WO 98/54225) as evidenced by Hunig (US Patent No. 6,987,171) (collectively referred to herein as “Hunig” reference).

The Office admits that Hunig “does not exemplify the organic polymer of the support structure activation by treatment with an activation reagent, or the diameter or surface of the support structure”. However, the Office indicated that it would have been obvious to attach antibodies to microparticles of the recited dimensions and activate them by the recited reagents.

Applicant respectfully disagrees. The Office does not point to any teaching of such combination of mAbs and microparticles with the dimension of the instant invention nor use of such microparticle for making pharmaceutical compositions for treatment of diseases.

Therefore, based upon the above, the Office has not met its prima facie case of obviousness. Therefore, Applicant respectfully requests that this rejection be withdrawn.

CONCLUSION

In light of the foregoing Amendments and remarks, it is believed that the rejections of record have been obviated, and allowance of this application is respectfully solicited. If a telephone conference would facilitate examination of this application in any way, the examiner is

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Examiner: Ilia Ouspenski, Ph.D.
GAU: 1644
Page 9 of 9

invited to contact the applicant's attorney at (619) 846-4850. The Examiner's consideration of this matter is gratefully acknowledged.

Respectfully submitted,

Dated: June 11, 2009
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